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File No. B Coroners/42

Legal DEPARTMENT

B BRANCH

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Sec C 28/12

Subject:—

P:16/12

Governor's Bill No XXVI of 1942

A Bill to amend the Coroners Act, 1871, in its application to the Province of B'bay

(amend of s 9 (1))

File No. B Coroners/42

Std. Sectt. Slip 24 B. e.

Bom XXV of 1942

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2.	U.O.to H.D., No.5587, dt. 8-9-42.	Draft Bill.	3-4.
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Office of the R.L.A.

The R.L.A. had already expressed the view that deaths ~~xx~~ from enemy action are accidental so that he thinks there is no lack of substance in the concurrent view of the Government of India. What view coroners would take it is impossible to say. Probably Paragraph 2 of the Government of India letter No.78/354/A.R.P.I surmises correctly what would happen. But if any difficulty is anticipated, then the Coroners Act may be amended.

2. The accompanying draft amendment is for consideration. The draft gives the necessary statutory authority for abstention from the holding of inquests as contemplated in paragraph 3 of the Government of India's letter at p.123. If H.D.(Spl.) wishes to go further and to debar the coroner from holding an inquest which he may, elect to hold, the word 'need' in the above draft should be replaced by the word 'shall'.

Sd. P.N.Moos,
11/6.
Remembrancer of Legal Affairs.

U.R.to H.D.(Spl.) A.R.P.No.4328,dated the 11th June 1942.

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Office of the R.L.A.

The requisite draft Bill is appended.

2. The Statement at page 13 ante, as slightly amended, is in order.

3. The subject-matter of the Bill falls under entry 1 in the Provincial Legislative List and entry 2 in the Concurrent Legislative List in the Seventh Schedule to the Government of India Act, 1935. As the Bill is repugnant to section 9 of the Coroners Act, 1871, which is an existing Indian law relating to entry 2 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the Governor General with reference to section 107(2) of the Government of India Act, 1935, and paragraph (2) of the Proclamation. Under executive instructions it is necessary to obtain the previous concurrence of the Governor General to the proposed legislation.

Sd. P.N.Moos, 7/7
Remembrancer of Legal Affairs.

U.R.to H.D.,No.5567, dated the 8th July 1942.

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5/8/56.

No.9650.

Legal Department,

Bombay Castle, 2nd December 1942.

From

P.N.Moos, Esquire, Bar-at-law, I.C.S.,
Secretary to the Government of Bombay.

To

The Secretary to the Governor of Bombay.

Subject:- A Bill to amend the Coroners Act, 1871, in its application to the Province of Bombay.

Sir,

With reference to your Memorandum No.201(70), dated the 3rd September 1942, addressed to the Home Department, on the above subject, I am directed to forward herewith a copy of the Bill to amend the Coroners Act, 1871, in its application to the Province of Bombay, prepared by His Excellency the Governor under paragraph (2) of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935.

2. None of the provisions of the Bill affects any special responsibility of the Governor under section 52(1) of the Government of India Act, 1935, or falls within the purview of clause (a), (b),(c) or (d) of Paragraph XVII of the Instrument of Instructions to the Governor of Bombay.

3. The subject matter of the Bill falls under entry 1 in the Provincial Legislative List and entry 2 in the Concurrent Legislative List in the Seventh Schedule to the Government of India Act, 1935. As the Bill is repugnant to section 9 of the Coroners Act, 1871, which is an existing Indian law relating to entry 2 in the Concurrent Legislative List, it is necessary to reserve the Bill for consideration of the Governor-General with reference to paragraph (2) of the Proclamation and section 107(2) of the Government of India Act, 1935.

4. I also forward herewith six spare copies of the Bill, out of which five copies are for transmission to the Secretary to the Governor-General (Public).

Your obedient servant,

Sd. P.N.Moos, 2/12
Secretary to the Government of Bombay,
Legal Department.

Through:
The Secretary to Government,
Home Department.

MRP.
5/5/56.

No.201(70).

Office of the Governor's Secretary,
Government House,
Bombay, 31st December 1942.

From

J.B.Irwin, Esquire, C.I.E, DSO., IC., ICS.
Secretary to the Governor of Bombay.

To

Secretary to Government,
Legal Department, Bombay.

Subject: The Coroners (Bombay Amendment) Bill, 1942.

Sir,

With reference to your letter No.9650, dated 2nd December 1942, on the above subject, I am directed to forward herewith the copy of the Coroners (Bombay Amendment) Bill, 1942, with His Excellency the Governor-General's assent signified thereon.

Your obedient servant.

Sd.

for Secretary to the Governor of Bombay.

MRP.
6/6/66.

Acts.

Publication of the Coroners (Bombay Amendment) Act, 1942.

GOVERNMENT OF BOMBAY.

Legal Department.

Resolution No.36.

Bombay Castle, 4th January 1943.

Letter to the Secretary to the Governor, No.9650, dated the 2nd December 1942.

Letter from the Secretary to the Governor, No.201(70), dated the 31st December 1942.

> "With reference to your letter No.9650, dated 2nd December 1942, on the above subject, I am directed to forward herewith the copy of the Coroners (Bombay Amendment) Bill, 1942, with His Excellency the Governor-General's assent signified thereon."

RESOLUTION:- The Law should be published as Bombay Act No.XXV of 1942, in the Bombay Government Gazette dated the 4th January 1943.

2. The Act should be translated into Marathi, Gujarati, Kanada, and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Home Department.

By order of the Governor of Bombay,

Original Sd. S.L.Chaudhari

for{ P.N.Moos, Secretary to Government.

To

The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 15 gazette copies of the Act may be forwarded to the Legal Department).

The Home Department.)
*The Oriental Translator to Government.) With a copy
The Secretary to the Bombay Legislative Council) of the
The Secretary to the Bombay Legislative Assembly.) Act.

HRP
5/5/36.

*With five extra copies.

Legal Department.

Soon and returned.

2. One copy of the Coroners and Criminal Procedure (Bengal Amendment) Bill, 1943, is retained in this office. The attention of G.D. and H.D. is invited to the Coroners (Bombay Amendment) Act, 1942 (Bom.XXV of 1942) and Government Notification, Home Department, No.6068/4 dated 11th January 1943 issued under section 174(1) of the Code of Criminal Procedure, 1898.

Sd.

For Secretary to Government.
Legal Department.

U.R.to G.D.through H.D.,No.1073 dated 8th February 1944.

HRP.
5/8/56.

~~DRAFT BILL~~

Bom. Act. No XXV of

~~GOVERNOR'S BILL No. XXV OF~~ 1942.

A Bill to amend the Coroners Act, 1871, in its application to the Province of Bombay.

IV of 1871. WHEREAS it is expedient to amend the Coroners Act, 1871, in its application to the Province of Bombay, for the purpose hereinafter appearing;

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under 26 Geo. 5, Ch. 2. section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

NOW, THEREFORE, in exercise of the said powers the Governor of Bombay is pleased to make the following Act:—

1. This Act may be called the Coroners (Bombay Amendment) Act, 1942. Short title.

IV of 1871. 2. To sub-section (*1*) of section 9 of the Coroners Act, 1871, as in force in Bombay the following proviso shall be added, namely:— Amendment of section 9 of Act IV of 1871.

"Provided that such inquest shall not be held in the case of death caused by enemy action, unless the Provincial Government so directs."

STATEMENT

Under section 5 (1) of the Coroners' Act, 1871, in its application to the Province of Bombay, a Coroner is required to hold inquests in cases of deaths caused by an accident. Government is advised that deaths resulting from enemy action cannot be regarded as not being accidental deaths. It is considered necessary to preclude inquests by the Coroner in such cases as this procedure is likely to cause great inconvenience and delay in the disposal of the bodies. It is moreover unnecessary to have inquests held in such cases. It is therefore proposed to amend that Act to provide that inquests should not be held by the Coroner in cases of deaths caused by enemy action, unless the Provincial Government so directs.

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.